394, 44 L. R. A. 522. Sunday baseball was enjoined for the same reason. *Dunham* v. *Baseball Assoc.* 44 Misc. 112, 89 N. Y. Supp. 762. The same decree was made in the case of accumulating and using nitro-glycerine within the corporate limits. *People's Gas Co.* v. *Tyner*, 131 Ind. 277, 31 Am. St. Rep. 433. A second exception to the general rule is that a court of equity may at the suit of the state enjoin a public nuisance, although the act constituting the nuisance is a crime. *In re Debs*, 158 U. S. 564; *Walker* v. *McNelly*, 121 Ga. 114; *State* v. *Crawford*, 28 Kan. 726, 42 Am. Rep. 182. Contra: *State* v. *Vaughan*, 81 Ark. 117, 7 L. R. A. (N. S.) 899, 118 Am. St. Rep. 29; *People* v. *Condon*, 102 Ill. App. 449. In cases under this exception property rights need not be involved. *State* v. *Canty*, 207 Mo. 439, 105 S. W. 1078, 123 Am. St. Rep. 393. Contra, see *State* v. *Vaughan*, supra. A third exception, under which the present case falls, is that the legislature may pass a statute authorizing the issuance of an injunction even though the effect of such act is to restrain the commission of a crime. *Mugler* v. *Kansas*, 123 U. S. 623; *State* v. *Roby*, 142 Ind. 168, 41 N. E. 145, 33 L. R. A. 213, 51 Am. St. Rep. 174; *Littleton* v. *Fritz*, 65 Ia. 488, 54 Am. Rep. 19.

MUNICIPAL CORPORATIONS—DEBT LIMIT—CONSTITUTIONAL INHIBITION.—Violations of the local option law became so flagrant in Umatilla County, Oregon, as to become a public scandal. The local officers, upon being appealed to, afforded no assistance in procuring evidence. The district attorney with the approbation of the county judge requested a detective agency to send an operative. This detective rendered effective service and his bill was approved and allowed by the county court. This suit was brought to enjoin the delivery of a warrant drawn by order of the county court in favor of the detective agency on the ground that the indebtedness of the county at the time exceeded the $5000.00 limit prescribed by the Constitution. *Held*, that the action of the court ratified the employment and that the constitutional debt limit applied only to such debts as were voluntarily incurred and not to such as could not be avoided without danger to the peace and good order of the community; consequently the fact that the debt limit had been reached was not a valid objection. *Cunningham et al.* v. *Saling, County Clerk, et al.* (1910), — Ore. —, 112 Pac. 437.

The opinion is based on an exceedingly broad classification of debts incurred by a county on the basis of voluntarily and involuntarily incurred debts. From this case the decisions vary in breadth of application down to the case of *Board of County Com. of D. Co.* v. *Gillett*, 9 Okla. 593, and *Barnard* v. *Knox Co.*, 105 Mo. 382, where even a warrant for books bought by the clerk as required by statute was held void because it was in excess of the constitutional inhibition. The state statutes have been commented upon by different courts in order to draw distinctions but the tendency is to construe them very narrowly and strictly. *People* v. *May*, 9 Colo. 414, 15 Pac. 36; *Litchfield* v. *Ballou*, 114 U. S. 190; *Lake County* v. *Graham*, 130 U. S. 674; *Doon Twp.* v. *Cummins*, 142 U. S. 366. This is shown in their restrictions as to any form of indebtedness. *Scott* v. *Davenport*, 34 Iowa 208. In the principal case means had been provided for the carrying out of the powers

in question, the new means were warranted by the decision on the basis of necessity. According to the case of *Township of Ada* v. *Kent Cir. Judge*, 114 Mich. 77, this element should have no bearing on the question. A close case is found in *Hopkins Co.* v. *St. Bernard Coal Co.*, 114 Ky. 153. There acting under an order of court pursuant to constitutional power, the sheriff sent out special guards. Their salary was over the constitutional limit. The court held the payment of the salary to be valid, however, saying: "The duty of preserving the public peace and protecting life and property cannot be avoided because the income provided for the year by the fiscal court will be insufficient." But here the guards were expressly provided for by statute and the court admits that this is not a debt incurred under a contract "which it is optional with the county to incur." In those decisions which make a distinction between voluntarily and involuntarily incurred debts, as in the principal case, it is primarily a question of what each court considers optional, and as the dissenting opinion points out and as is intimated in the case of *Lake Co.* v *Rollins*, 130 U. S. 662, even with such a distinction, the fact that the Constitution provides for certain specified acts does not provide a class of obligations called compulsory obligations unless there is a necessary inability to give both these acts and the clause as to indebtedness their exact and literal fulfillment.

NUISANCE—WHAT CONSTITUTES—AUTOMOBILE GARAGE.—Plaintiff brought an action to obtain a permanent injunction to restrain defendant from opening and maintaining a public garage on a lot directly across the street and about seventy feet distant from plaintiff's dwelling, in a residential district. *Held*, that the establishment of an automobile garage in a residential district is not a nuisance per se, and injunction refused. *Sherman* v. *Levingston* (1910), 128 N. Y. Supp. 581.

The appearance of the garage is so recent that its right to exist in the residential district of a city has been passed upon by only a few courts. In *Stein* v. *Lyon*, 91 App. Div. 593, 87 N. Y. Supp. 125, the court declared that a garage is not a nuisance per se, and the same conclusion was reached in the case of *Diocese of Trenton* v. *Toman*, 74 N. J. Eq. 702, 70 Atl. 606, these courts evidently taking the view expressed in the principal case that a public garage may be so conducted that its objectionable features may be eliminated, or at least minimized to an extent that its operation will not unduly annoy or inconvenience those who reside near by. There is no question, however, that they may be so conducted as to become nuisances, and in *O'Hara* v. *Nelson*, 71 N. J. Eq. 161, 63 Atl. 836, the operation of a garage was enjoined where gasoline was to be stored upon the premises in large quantities so that there was imminent danger from explosion. There would seem to be no good reason for holding a garage a nuisance per se when livery stables in a city are held to be not necessarily nor prima facie a nuisance. *Durfey* v. *Thalheimer*, 85 Ark. 544, 109 S. W. 519; *Bonaparte* v. *Denmead*, 108 Md. 174, 69 Atl. 697.

PARTNERSHIP—ILLEGALITY—RECOVERY ON EXECUTED CONTRACT.—Plaintiff, a married woman, left her husband and eloped with defendant, with whom